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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,525	09/29/2003	David J. Haas	3.0-001	1192
7590	09/24/2004		EXAMINER	
Michael E. Zall Two Yorkshire Drive Suffern, NY 10901			BARRETT, SUZANNE LALE DINO	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/672,525	HAAS, DAVID J. <i>M</i>
	Examiner	Art Unit
	Suzanne Dino Barrett	3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3-6,8-11,13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsai 5,899,099. Tsai teaches a keyless plunger lock comprising a sleeve 6 having indicia thereon and a keyway and a lip portion, a plunger 7 having a key 72 at a distal portion thereof to engage the keyway, and spring bias 14 in the bottom of the sleeve, and wherein upon engagement and sliding of the key within the keyway against the spring bias, the indicia or plunger are rotated to engage the key with the bottom portion of the lip having a plurality of key grooves (211). Furthermore, the plunger and sleeve ends both having attachment means.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai "099 in view of Hermann 4,428,211. Hermann teaches the use of a removable cap 126 on a plunger lock arrangement. It would have been obvious to one of ordinary skill in the art to modify the cap portion (end of sleeve 6) to be removable as taught by Hermann as an obvious matter of design choice.

5. Claims 2,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai '099 in view of Dean 254,284 or Pursell 457,959. Tsai fails to teach the indicia on the plunger instead of the sleeve. Both Dean and Pursell teach plunger lock mechanisms wherein the plunger carries the indicia. Accordingly, it would have been considered an obvious reversal of parts to have the plunger of Tsai carry indicia as taught by either Dean or Pursell as an obvious matter of design choice.

Response to Arguments

6. Applicant's arguments filed 9/9/04 have been fully considered but they are not persuasive. As set forth in the rejection above, it is maintained that Tsai teaches the elements as recited in independent claims 1-3, including a circumferential lip that is "fixedly mounted" within the sleeve and "including one known indicium". With regard to the lip, it is clearly shown in Figure 3 of Tsai that one of the disks 5 having the lip portion to engage the key is fixedly mounted within sleeve 6. With respect to the indicium, since Applicant has not amended the claims to recite "consisting of" language, which would be more limiting, the recitation "including one known indicium" does not define over

Art Unit: 3676

Tsai, which discloses multiple indicia, since it does not preclude the fact that Tsai does disclose one indicium. Accordingly, claims 1-13 stand finally rejected.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Dino Barrett whose telephone number is 703-308-0825. The examiner can normally be reached on M-Th 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Suzanne Dino Barrett
Primary Examiner
Art Unit 3676

sdb